

TOWN OF ACTON

Regulations

for

Condominium or Cooperative Conversion Permit Applications

Adopted Under Chapter 548 of the Acts of 1987

Effective : 6 June 1988

\$15.

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SECTION 1
GENERAL PROVISIONS

1.1 AUTHORITY

These REGULATIONS are adopted by the Acton Board of Selectmen as authorized by Section 3, Chapter 548 of the Acts of 1987.

1.2 PURPOSE

The purpose of these REGULATIONS is to establish uniform rules and procedures for conducting the business of the BOARD under Chapter 548 of the Acts of 1987.

1.3 APPLICABILITY

Any person applying for a PERMIT to REMOVE FROM RENTAL HOUSING USE a rental housing unit, whether or not governed by any other federal, state, or local permits, variances, approvals, or programs, shall comply with the provisions of these REGULATIONS.

1.4 DEFINITIONS

Terms used in these REGULATIONS are defined as in Chapter 548 of the Acts of 1987. In addition the following terms are defined:

ACT Chapter 548 of the Acts of 1987.

APPLICANT An OWNER or other party authorized by an owner to CONVERT a rental housing unit under the ACT.

APPLICATION A complete application for a PERMIT to REMOVE FROM RENTAL HOUSING USE a rental housing unit under the ACT as defined in Section 2 below.

CONVERT To REMOVE FROM RENTAL HOUSING USE a rental housing unit as defined in the ACT.

DECISION Action by the BOARD on an APPLICATION

PERMIT A permit from the BOARD to REMOVE FROM RENTAL HOUSING USE a rental housing unit or units under the ACT.

REGULATIONS These rules and regulations adopted under the ACT.

TOWN The Town of Acton.

The words defined in these REGULATIONS and the ACT are capitalized throughout this document.

1.6 ADVICE FROM TOWN STAFF

Any advice, opinion, or information given to the APPLICANT by a BOARD member, the Building Commissioner, the Town Planner, or other officials or employees of the TOWN shall not be binding on the BOARD.

SECTION 2

APPLICATION REQUIREMENTS

A complete APPLICATION for a PERMIT to CONVERT a unit of rental housing from rental housing use shall include the following items:

- 2.1 Completed approved application form -- Application for a PERMIT to REMOVE FROM RENTAL HOUSING USE any rental housing unit shall be made in writing and include the completed application form entitled "Application for a Permit to CONVERT a Rental Housing Unit from Rental Housing Use" hereby adopted as a part of these REGULATIONS (see Appendix) and furnished by the BOARD at Town Hall. If the APPLICANT is not the OWNER of the rental housing unit, then the OWNER must sign the application form attesting to the OWNER'S knowledge of and consent to the APPLICATION.
 - 2.1.1 Waiver of REGULATIONS -- Strict compliance with these REGULATIONS may be waived if the BOARD finds that the APPLICATION contains all necessary information to demonstrate compliance with the ACT. Any request from an APPLICANT for a waiver from these REGULATIONS must be submitted in writing to the BOARD. Such request must clearly identify the provision or provisions for which a waiver is being sought. In addition, such requests shall be accompanied by a statement setting forth the reasons why, in the APPLICANT'S opinion, the granting of such a waiver or waivers would be consistent with the intent and purpose of the ACT.
- 2.2 The proposed Master Deed of the condominium or the Bylaws of the cooperative.
- 2.3 The name of the present TENANT of the rental housing unit for which the PERMIT is sought and the expiration date of the LEASE or rental agreement for such TENANT.
- 2.4 A notice of intent to CONVERT with evidence that this notice has been received by the TENANT. All notices required under the ACT and these REGULATIONS shall be deemed to have been given to the TENANT when a written notice is delivered in person to the TENANT and a signed receipt obtained, or when the written notice is mailed to the TENANT by certified or registered mail, return receipt requested. Such notice shall state in clear and conspicuous language :
 - 2.4.1 That the APPLICANT intends to file a Master Deed at the Middlesex County Registry of Deeds or intends to file Articles of Organization with the Secretary of the Commonwealth under the ACT and these REGULATIONS.
 - 2.4.2 That a hearing on the PERMIT will be held by the Board of Selectmen for which notice will be given to the TENANT by certified mail at a later date.
 - 2.4.3 The APPLICANT'S obligation to take no action to recover possession and the TENANT'S right to remain as a tenant of the unit until at least one (1) year has elapsed from the date of notice

or two (2) years have elapsed for HANDICAPPED, ELDERLY, or LOW OR MODERATE INCOME TENANTS, or until the expiration of the TENANT'S LEASE, whichever is later, except for violation of a valid covenant in a LEASE or for nonpayment of rent.

- 2.4.4 The APPLICANT'S obligation to extend a TENANT'S LEASE for a period of time equal to the period of notice provided for in the ACT, and the limits on the modifications and rent increases that may be made during that extension as provided for in the ACT.
- 2.4.5 The APPLICANT'S obligation to provide the TENANT with the right to purchase the unit for a period of time not less than 90 days following the grant of the PERMIT by the BOARD and the terms under which said unit may be purchased including selling prices, down payment requirements, and financing arrangements.
- 2.4.6 The TENANT'S opportunity to exercise the right to purchase by signing a purchase and sales agreement during the 90 days following the TENANT'S receipt of a copy of the purchase and sales agreement properly executed by the OWNER.
- 2.4.7 The APPLICANT'S obligation to give relocation assistance as provided for in the act, the details of relocation assistance the APPLICANT has or will provide to TENANTS, and documents evidencing the current availability of comparable rental housing in or near Acton.
- 2.4.8 The following: "Other potentially more favorable terms may be available for financing the purchase of your unit. You are advised to contact the Federal Housing Administration, the Massachusetts Housing Finance Agency, and the Veterans Administration (if applicable) to explore any programs that may be of benefit to you. If you qualify under any such program you are entitled to purchase your unit under such program. You must demonstrate to the seller your eligibility under such a financing program by obtaining a preliminary eligibility statement prepared by any bank or loan institution. The choice of the state or federally backed financing program is yours." Telephone numbers for the Federal and state financing organizations shall also be included.
- 2.4.9 The following: "Please note that State and Federal laws require equal choice and access to housing for all persons and prohibits discrimination in housing because of race, color, creed, sex, age, national origin, marital status, military status, blindness, ancestry, children, and public assistance or rent subsidy status. If you feel that you have been discriminated against unfairly, please call the Acton Fair Housing Office at 264-9636."
- 2.4.10 A copy of the certification by an independent licensed engineer or architect pursuant to Section 2.6 below that the building in which the rental housing is located meets all applicable building and health codes of the TOWN and the Commonwealth including those regarding asbestos and lead paint.
- 2.4.11 The APPLICANT'S obligation to comply with Section 4.3.2 of these REGULATIONS using the exact language of Section 4.3.2 reproduced in the NOTICE.

- 2.5 Documents certifying that the terms of purchase offered to the TENANT are substantially the same as or more favorable than those which the APPLICANT will extend to the public generally for 90 days following the expiration of the TENANT'S right to purchase.
- 2.6 A building report by an independent, licensed engineer or architect certifying that the building in which the rental housing unit is located meets all applicable building and health codes of the TOWN and the Commonwealth and that the building complies with state regulations regarding asbestos and lead paint.
- 2.7 A report by a licensed inspector stating that the septic system has been pumped and inspected within the year prior to the date of the APPLICATION and certifying what condition the system was in and what problems with the system were found by the inspection.
- 2.8 A non-refundable application fee of \$50 per unit shall be paid by the APPLICANT to the TOWN at the time of submission. Checks shall be made payable to the "Town of Acton".
- 2.9 **INCOMPLETE APPLICATIONS** -- If the BOARD determines that an APPLICATION is incomplete, that APPLICATION may be denied. The APPLICANT may also, with the approval of the BOARD, withdraw an incomplete APPLICATION without prejudice and then may refile that APPLICATION when it is completed. In either case the application fee shall not be refunded, and a new fee shall be required if and when the APPLICATION is refiled.

SECTION 3

APPLICATION PROCEDURE

3.1 NOTICE TO TENANTS

Prior to any application for a PERMIT under the ACT written notice of the proposed conversion, as provided for in Sect. 2.4 above, shall be given by an APPLICANT to each TENANT of the rental housing unit for which a PERMIT is sought.

- 3.1.1 Notice to Subsequent Tenants -- After the APPLICANT has given the current TENANT notice of the proposed REMOVAL FROM RENTAL HOUSING USE of a unit, that APPLICANT shall provide notice of such proposed conversion to all subsequent prospective tenants prior to the beginning of any tenancy and such notice shall be included in any LEASE made by those prospective tenants. However, the landlord shall not be obligated to provide any such subsequent tenant the rights provided to tenants in occupancy at the time of first notice under the ACT and these REGULATIONS.

3.2 SUBMISSION OF AN APPLICATION

- 3.2.1 The APPLICANT shall submit seven (7) copies of a consolidated APPLICATION for all units for which a PERMIT is sought in each building, but the APPLICANT must show compliance with the ACT and these REGULATIONS with respect to each rental housing unit for which a PERMIT is sought. Such APPLICATION shall be submitted within 7 days of the notice to the TENANT of each unit. Such submission shall be made to the Office of the Acton Town Clerk who will certify the date and time of filing. The Town Clerk may require that one copy of the complete APPLICATION be filed with the Office of the Town Clerk.
- 3.2.2 On the same day of the filing with the Town Clerk, the APPLICANT shall submit the remaining copies of the certified and complete APPLICATION to the Office of the BOARD.
- 3.2.3 Information Submitted After the Initial APPLICATION Filing Date Will Not Be Accepted Except At the Public Hearing. If significant information that was not included in the APPLICATION is presented at the public hearing, the hearing may be continued to allow for staff review of the new material.

3.3 RECOMMENDATIONS FROM TOWN STAFF

The BOARD shall promptly transmit a copy of the APPLICATION and any additional information to the Building Commissioner, the Board of Health, the Planning Department, and the Acton Housing Authority for their recommendations.

3.4 PUBLIC HEARING

The BOARD shall hold a public hearing within 60 days of the filing of an APPLICATION after :

3.4.1 A notice of the hearing indicating date, time, place, and purpose of the hearing has been sent by certified mail by the APPLICANT to the TENANT of the rental housing unit for which a PERMIT is sought at least 14 days prior to the date of the hearing. Return receipts evidencing the receipt of this notice shall be presented to the BOARD at the public hearing. Such notice must contain, at a minimum, the information presented in the sample legal notice provided in the appendix to these REGULATIONS.

3.4.2 Such notice of the hearing has been posted in a conspicuous location and at each common entrance by the APPLICANT in the building/s in which the rental housing is located and in a conspicuous location in Town Hall by the BOARD for a period of at least 14 days prior to the date of said hearing.

3.5 HEARING PRESENTATION

The APPLICANT or his/her representative will be expected to appear at the hearing and present the case, stating fully the reason(s) why the PERMIT should be granted. The presentation should not exceed ten (10) minutes except for good reason. The APPLICANT may be required to answer questions on the APPLICATION raised by the BOARD or the public.

In no case will the BOARD allow new evidence to be admitted after the close of the public hearing unless this evidence was specifically requested by the BOARD prior to the close of the public hearing.

3.6 WITHDRAWAL OF APPLICATION

Any APPLICATION for a PERMIT submitted hereunder may be withdrawn without prejudice by notice in writing to the BOARD prior to the notice of a public hearing being posted or mailed as pursuant to Section 3.5 above. Withdrawal of any APPLICATION thereafter requires BOARD approval. No refund of the application fee will be provided if an APPLICATION is withdrawn.

3.7 CONTINUATION OF THE HEARING

The public hearing may be continued to a specific date and place designated by the BOARD.

3.8 DECISION

3.8.1 The BOARD may grant PERMITS for some or all of the units for which PERMITS are sought and may impose different conditions on individual units.

3.8.2 The APPLICANT and the TENANT shall be entitled to a copy of the BOARD's DECISION and a copy of the DECISION shall be filed with the Town Clerk.

3.9 LIMITATION OF THE DECISION

The granting of a PERMIT constitutes approval only under the ACT. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied. The APPLICANT is hereby encouraged to seek approvals and certificates

of compliance from such other governmental bodies prior to or concurrently with the APPLICATION to the BOARD.

3.10 APPEAL OF DECISION

Any party aggrieved by the DECISION of the BOARD, whether or not previously a party to the proceeding, may appeal such DECISION within 20 days after the filing of the DECISION with the Town Clerk.

3.11 TIME LIMIT FOR PERMIT

Any PERMIT granted under the ACT and these REGULATIONS shall lapse within a period of time, to be specified by the BOARD, not to exceed one (1) year from the date of issue.

SECTION 4

FINDINGS AND CONDITIONS OF APPROVAL

4.1 VOTING REQUIREMENTS

The concurring vote of three (3) of the five (5) members of the BOARD shall be necessary to grant a PERMIT.

4.2 FINDINGS

The BOARD shall grant a PERMIT only if :

- 4.2.1 The APPLICANT has provided each TENANT of all housing accommodations in such building or buildings intended to be CONVERTED to the condominiums or cooperative form of ownership, such notice, right to purchase, relocation benefits, assistance in locating comparable rental housing and appropriate provisions for extension of rental agreements as set forth in Section Four of the ACT.
- 4.2.2 The APPLICANT has provided to the BOARD a certification, stamped and signed by an independent registered engineer or architect licensed to practice in the Commonwealth, that the housing accommodations which are intended to be CONVERTED to the condominium or cooperative form of ownership meet all applicable building and health codes of the TOWN and of the Commonwealth.
- 4.2.3 The CONVERSION as proposed will comply with the ACT and these REGULATIONS.

4.3 CONDITIONS OF APPROVAL

- 4.3.1 **TENANT PROTECTION.** The APPLICANT shall protect the TENANT of the unit to be CONVERTED from harassment during the period the TENANT is entitled to remain in the unit by : (a) showing the units to prospective purchasers only during reasonable times and at reasonable frequencies, by (b) showing the units only after notifying the TENANT of the specific date and time of the showing, by (c) minimizing disturbances and inconveniences to the TENANT due to construction or renovation work conducted in preparation for the conversion, by (d) properly notifying the TENANT of any expected and unavoidable disturbances or inconveniences, and by (e) prohibiting any rent increases during the period the TENANT is entitled to remain in the unit, except as provided for in Section 4(e) of the ACT.
- 4.3.2 **ASBESTOS AND LEAD PAINT.** The APPLICANT shall inform potential purchasers of units of any asbestos material or lead paint known to be present in any part of any of the buildings.
- 4.3.3 **MONITORING WELLS.** Prior to the CONVERSION of any housing unit the APPLICANT shall submit to the BOARD a letter of agreement stating that at such time and in such quantity as the BOARD may designate, the APPLICANT of the property will provide up to three (3) monitoring wells for the purpose of monitoring the general quality of groundwater in the area of the

subject site and to provide an early warning of potential problems. Such wells shall be installed in accordance with the directions and specifications of the BOARD. The APPLICANT shall agree to assume all costs necessary for and associated with the installation of such monitoring wells, not in excess of \$2,000 per well at 1988 prices, plus the standard adjustments for inflationary changes as indicated in the consumer price index published by the United States Department of Labor. The APPLICANT shall further agree to provide the necessary access rights to the TOWN and the Acton Water District in order to facilitate the taking of water samples for analysis. Said agreement shall be recorded with the master deed and shall be binding to all subsequent OWNERS and their condominium associations. (It is suggested that this letter be provided in the APPLICATION packet.)

- 4.3.4 **TERMS OF SALE TO TENANTS AND PUBLIC.** The OWNER may not offer the public any more favorable terms of sale for the unit than the OWNER offered the TENANT for 90 days following the expiration of the TENANT'S right to purchase the unit.
- 4.3.5 **OTHER PERMITS OR APPROVALS.** The BOARD may condition, as appropriate, any PERMIT hereunder on the satisfactory and demonstrated compliance with the requirements of permits or approvals from other governmental bodies having jurisdiction over the subject property prior to the conversion of any unit for which a PERMIT has been granted.

APPLICATION FOR A PERMIT TO CONVERT
A RENTAL HOUSING UNIT FROM RENTAL HOUSING USE

Town of Acton, Massachusetts

To The Board of Selectmen

* RECEIVED BY TOWN CLERK

* by _____

* date _____

*

* application # _____

File a completed APPLICATION with the Town Clerk and then present 7 separate copies of the APPLICATION to the Office of the BOARD including a check for the full amount of the required application fee.

Refer to the "Regulations for Condominium or Cooperative Conversion Permit Applications" for details on the information required in a complete APPLICATION. Incomplete applications may be DENIED.

Please print or type this application.

APPLICANT _____

APPLICANT'S ADDRESS _____

TELEPHONE _____

ADDRESS OF EACH UNIT FOR WHICH A PERMIT IS SOUGHT

The undersigned hereby petitions the Board of Selectmen for a public hearing and a permit under Chapter 548 of the Acts of 1987 to remove from rental use the unit/s listed above.

The undersigned hereby certifies that the information on this application is correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Chapter 548 of the Acts of 1987 of the Commonwealth of Massachusetts.

Date

Signature of APPLICANT

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

Date

Signature of OWNER

Legal Notice of a
PUBLIC HEARING
Town of Acton

The Acton Board of Selectmen will hold a public hearing on

at _____ P.M., at the Town Hall, 472 Main Street, Acton,
Massachusetts, to discuss an application to remove from rental housing
use rental housing unit/s located at:

as petitioned by _____.

Such permits may be granted by the Board under Chapter 548 of the Acts of 1987 and in accordance with the "Regulations For Condominium or Cooperative Conversion Permit Applications" both of which are available for review or purchase at the Offices of the Board of Selectmen and the Town Clerk. A copy of the application is also available for review at these offices. The Offices of the Clerk and the Board are located at Town Hall and are open from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing.

When all of the facts have been presented and all persons wishing to speak on the application have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.